

[Senate Bill 1347](#) (Nielsen)

Date: 02/19/16

Program: Fire Prevention Fee

Sponsor: Author

Public Resources Code Sections 4214

Effective: January 1, 2017

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This analysis only addresses the provisions that impact the Board of Equalization (BOE).

Summary: Limits the total administrative costs of fire prevention fees at 5% of amounts collected.

Purpose: According to the author, caps administrative costs so more money can be expended on needed fire prevention projects.

Fiscal Impact Summary: To the extent the BOE does not have sufficient funds to issue billings and collect the fee, a portion of the \$82 million revenues may not be collected.

Existing Law: Existing law¹ requires the Board of Equalization (BOE) to collect an annual fire prevention fee in accordance with the Fee Collection Procedures Law (FCPL).² The fee benefits the California Department of Forestry and Fire Protection (CAL FIRE), which is responsible for fire prevention and suppression in areas that the State Board of Forestry and Fire Protection (Fire Board) has determined are state responsibility areas (SRAs). As required,³ the Fire Board adopted emergency regulations to establish a fire prevention fee. Initially, the fee was not permitted to exceed \$150 per habitable structure on a parcel located within an SRA. Beginning July 1, 2013, the Fire Board was required to annually adjust the rate to reflect the percentage of change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States.

Since January 1, 2015, the Fire Board has permissive authority to annually adjust the fire prevention fee rate.⁴ The \$152.33 fee for fiscal year (FY) 2015-16 remained the same from FY 2014-15; most bills amounted to \$117.33, as most owners received a \$35 reduction in the fee.⁵

Public Resources Code (PRC) Section 4102 defines an SRA as an area over which the Fire Board determines that the prevention and suppression of fires is primarily the financial responsibility of the state. PRC Section 4125 requires the Fire Board to classify all state lands and determine the areas in which the state has primary financial responsibility for fire prevention and suppression.

Collection and Administration. Commencing with FY 2011-12, the BOE annually collects the fire prevention fee. The FCPL governs the BOE's collection function.

The FCPL generally provides for the BOE's administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals procedures, as well as the BOE's authority to adopt regulations related to the FCPL's administration and enforcement.

¹ Public Resources Code (PRC) Section 4213.

² Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code (RTC).

³ PRC Section 4212(a).

⁴ PRC Section 4212(b). On January 7, 2014, the Fire Board adjusted the fire prevention fee rate from \$150.00 to \$152.33, as required by statute. The fee amount was not adjusted subsequently. On January 1, 2015, the fee adjustment was made permissive with the passage of AB 2048 (Ch. 895, Stats. 2014). http://www.bof.fire.ca.gov/regulations/approved_regulations/2014_approved_regulations/approved_sra_fee_adjustment_reg.pdf

⁵ If a habitable structure is also within the boundaries of a local agency that provides fire protection services, the property owner will receive a \$35 reduction for each habitable structure. Approximately 98% of habitable structures in an SRA are also covered by a local fire protection agency.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

By each January 1, CAL FIRE transmits to the BOE the name, address, and assessment amount of each person liable for the fee. In addition, CAL FIRE provides to the BOE a telephone number that feepayers may call if they have questions.

Annual fire prevention fee assessments are due and payable to the BOE 30 days after assessment. The amount assessed becomes final at the end of the 30-day period, unless a feepayer files a petition for redetermination within that period. If a feepayer files a timely petition for redetermination, all legal collection actions are held until CAL FIRE's final determination.

The fire prevention fee may not be collected if, in any given fiscal year, the SRA Fire Prevention Fund (Fund) has sufficient funds to finance specified prevention activities. CAL FIRE and the BOE began the FY 2015-16 (Year 5) billings in March 2016.

An exemption from the fire prevention fee provides relief for the owner of a habitable structure that is subsequently deemed uninhabitable as a result of a natural disaster during the year for which the fee is due. If the habitable structure has not been repaired or rebuilt, then the exemption may apply to one subsequent year.⁶

Proposed Law: This bill limits total administrative cost reimbursement at 5% of fire prevention fees collected.

The bill also extends from January 31, 2017 to January 31, 2022, the annual report on the status and use of the fire prevention fee funds required to be filed by the Fire Board.

Background: On July 7, 2011, Governor Brown signed ABx1 29,⁷ which required the BOE to collect the new fire prevention fee, commencing with FY 2011-12. Since then numerous bills have been introduced to repeal, replace, or provide a fire fee exemption but only two bills have become law. AB 2048 (Ch. 895, Stats. 2014, Dahle) made numerous changes to the program. AB 301 (Ch. 104, Stats. 2015, Bigelow) requires CAL FIRE to notify feepayers that the fire prevention fee may be apportioned when selling property and may be a term of the sale between the parties.

Other bills introduced this legislative session include:

Bill No.	Session	Author	Subject
AB 203	2015-16	Obernolte	Would have extended the date by which the annual fire prevention fee assessment is due and payable, as well as the time period in which to file a petition for redetermination, from 30 to 60 days.
AB 232	2015-16	Obernolte	Would have extended the date by which the annual fire prevention fee assessment is due and payable, as well as the time period in which to file a petition for redetermination, from 30 to 60 days.
AB 301	Ch. 104 Stats. 2015	Bigelow	Requires CAL FIRE to notify feepayers that the fire prevention fee may be apportioned when selling property and may be a term of the sale between the parties.
AB 1202	2015-16	Mayes	Intended to provide a fire prevention fee reduction of an amount equal to the amount paid to a local fire district for fire prevention services.
SB 198	2015-16	Morrell	Proposed repeal of the fire prevention fee.

⁶ PRC Section 4213.1.

⁷ Chapter 8, Stats. 2011.

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Bill No.	Session	Author	Subject
SB 250	2015-16	Gaines	Would have extended the date by which the annual fire prevention fee assessment is due and payable, as well as the time period in which to file a petition for redetermination, from 30 to 60 days.
SB 520	2015-16	Berryhill	Proposed repeal of the fire prevention fee.

Commentary:

1. **Without proper funding, the BOE may not be able to issue billings or collect the fee.** The BOE is mandated by statute to assess and collect the fire prevention fee on behalf of CAL FIRE. The BOE costs are currently not capped at any amount or percentage. BOE staff estimates FY 2016-17 collected revenues at \$82 million, and the [Governor's 2016-17 Budget provides that](#) the BOE's FY 2016-17 fire prevention fee program expenditures are \$8.52 million, about 10% of revenues. At 5% of projected revenues, expenditures would be \$4.10 million. As this bill caps total administrative costs for both CAL FIRE and the BOE, it would not be reasonable to assume that the BOE would receive the total 5% funding, which in itself would be insufficient to administer the program. This bill does not specify which agency would receive funds, nor does it indicate where cost savings are to be achieved.

With respect to the fire prevention fee billings, CAL FIRE is responsible for annually providing the appropriate name, address, and fee amount to the BOE on approximately 760,000 feepayers. Without that basic information from CAL FIRE, the BOE cannot issue billings. Without proper funding, the BOE may be unable to perform key functions, which include, but are not limited to: issuing approximately 730,000 initial billings to be mailed in FY 2015-16; collecting unpaid amounts; adjusting penalties; issuing refunds; responding to public inquiries; and managing the CAL FIRE data.

2. **BOE administered taxes and fees.** Currently, the BOE collects taxes, fees, and surcharges that provide over 30% of the state's annual revenues and provides essential funds to local governments. More than one million businesses are registered with the BOE, with most of these involved in the state's sales and use, fuels, alcoholic beverages, tobacco, and other taxes and fees that fund specific programs. The Legislature relies on the BOE to administer additional taxes and fees, while the Department of Finance monitors and evaluates BOE administrative costs. Legislative concerns regarding fire prevention fee administrative costs may also be addressed through the annual budget process, a mandated legislative report, or through program reports or audits conducted by the Legislative Analyst's Office or the State Auditor. BOE staff are available to discuss administrative costs and the unique challenges that the fire prevention fee presents.
3. **Related bills.** [AB 1642](#) (Obernolte, et al) extends from 30 to 60 days the time by which the annual fire prevention fee assessment is due and payable, as well as the time period in which to file a petition for redetermination.

Administrative Costs: The Governor's 2016-17 Budget projects BOE fire prevention fee administrative costs at \$8.52 million. Based on projected revenues, this bill would cap total CAL FIRE and BOE fire prevention fee administrative costs at approximately \$4.10 million.

Revenue Impact: This bill limits BOE's and CAL FIRE's administrative costs to 5% of fire prevention fee revenues, which may be insufficient to issue billings or collect the fee. To the extent the BOE is unable to perform some administrative and collection functions, an unspecified amount of the \$82 million fee revenues is at risk.

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